-10258-NG

## UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

		CASE NO. 04-10258NG
ARTHUR PERNOKAS AND	)	
DIANE PERNOKAS,	)	
Plaintiffs	)	MOTION TO CONTINUE AND
	)	RESCHEDULE TRIAL
VS.	)	
	)	
BARRIE PASTER, M.D.,	)	
Defendant	)	

This matter is scheduled for jury trial on November 13, 2006. It is a medical malpractice claim involving an allegation of delay in diagnosis of colon cancer. In addition to plaintiff and his wife, plaintiff intends to call two expert witnesses. In addition to the defendant physician, defendant intends to call three expert witnesses. In discussions with the session clerk, counsel understand that we should anticipate about two weeks for trial.

Counsel for defendant represents one of four defendants in another malpractice action pending in Bristol Superior Court (Lannan, et al v. Schlitzer, et al, Civil Action No. 2001-01069). That matter had been previously set for trial on November 6, 2006, but in early October, the session clerk in Bristol advised that the Court was ready for this case as were all counsel. A mediation conference had been held and failed. The Bristol case is one involving the birth of a child and allegations of neurologic damage. Trial of that case is not expected to conclude until late in the week of November 13<sup>th</sup>.

Counsel for defendant notified the clerk in the Pernokas matter of that scheduling issue and also advised counsel for plaintiff. Counsel for plaintiff does not oppose this request for a continuance.

Should the Court be inclined to continue this trial date, both counsel request the opportunity to appear before the Court for purposes of a trial scheduling conference so that a realistic new trial date might be scheduled in light of counsels' trial schedule and the scheduling difficulties relative to the experts.

MARTIN, MAGNUSON, McCARTHY & KENNEY

/s/ Charles P. Reidy, III Charles P. Reidy, III B.B.O. No. 415720 Attorney for Defendant, Barrie Paster, M.D. 101 Merrimac Street Boston, MA 02114 617-227-3240

Assented to:

/s/ Robert C. Gabler Robert C. Gabler 100 Summer Street Suite 3232 Boston, MA 02110

## **CERTIFICATE OF SERVICE**

I, Charles P. Reidy, III, attorney for defendant, Barrie Paster, M.D., hereby certify that on the 20<sup>th</sup> day of October, 2006, a copy of the above document was sent via fax to Robert C. Gabler, Esquire, 100 Summer Street, Suite 3232, Boston, MA 02110.

/s/ Charles P. Reidy, III Charles P. Reidy, III B.B.O. No. 415720 Attorney for Defendant, Barrie Paster, M.D. 101 Merrimac Street Boston, MA 02114 617-227-3240